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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,704	04/27/2000	Michael D. Zoeckler	R029 1056 (7137-US)	2557

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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12/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/559,704	Applicant(s) ZOECKLER, MICHAEL D.	
	Examiner Christopher R. Harmon	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9-11,13-15,25-29,31-33 and 77-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9-11,13-15,25-29,31-33 and 77-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/08 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-7, 11, 13, 25, 31-33, and 77 are rejected under 35 U.S.C. 102(b) as being anticipated by Walsh (US 5,746,871).

Walsh discloses a method for forming carton blanks with multiple panels including top, sides and bottom (see column 1, lines 45+) comprising advancing a web of paperboard 2 (with two surfaces) along a path; progressively applying and adhering at least a first and second ribbon of reinforcing material 6 (to a first inner surface) with a width less than the paperboard to edge panel portions; the paperboard has longitudinally extending panel portions defined by fold lines 54 (formed on both sides of the web 2); see figures 2 and 5-6. Carton blanks are cut from the laminated structure

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and later formed into a carton (score lines 54 are adjacent to edge of ribbon 6) to form individual carton blanks for receiving articles (see figures 1 and 2, column 1, lines 24-65). Because the layers are added thicknesses to an original web, the resulting structure is considered reinforced with the paperboard layer on the outside of the container (strips on the inside).

An additional ribbon 10 is applied to the composite layers in order to adhere/laminate the structure together forming a double thickness of reinforcement and the innermost layer; see figure 1.

Regarding claims 7 and 32, central ribbon 6 is considered overlying an intermediate panel portion as claimed and is applied in order to provide for two adjacent blanks after the cutting procedure, however note that the longitudinal fold lines 54 encompass either side of the are adhered to the opposing edges therefore overlie substantially but not beyond the intermediate panel portion; see figure 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh (US 5,746,871) in view of Decottignies et al. (US 5,097,651).

Walsh does not directly disclose printing indicia on the ribbon, however Decottignies et al. teach printing indicia on reinforcing material 5 before adhesion to web 4. It would have been obvious to one of ordinary skill in the art at the time of the invention to include printing indicia as desired for product enhancement.

6. Claims 2, 14-15, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh (US 5,746,871) in view of McNown (US 5,447,270).

Walsh does not directly disclose using paperboard (trim or otherwise) for the reinforcing ribbons 6. However, McNown teaches manufacturing a paperboard carton with a reinforcing panel portions made of paperboard strips along score lines in order to increase structural integrity. It would have been obvious to one of ordinary skill in the art to use a reinforcing ribbon of paperboard (trim, cull, etc.) as taught by McNown to reinforce support to the cartons of Walsh along score/fold lines.

7. Claims 78-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh (US 5,746,871) in view of Meyers (US 4,177,715).

Walsh does not directly disclose a third ribbon that is partially adhered to the web however Meyers teaches a process of manufacturing a reinforced paperboard container comprising partially adhering a third ribbon 54 of material to a continuous web 51 not overlying any longitudinal fold lines; see figures 1-3.

The third ribbon is partially adhered to the web 51 to a longitudinal fold line for folding the second unjoined portion into an internal divider for the container.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the process of partially adhering a ribbon as taught by Meyers in the invention to Walsh for providing for a box with an internal partition element.

Response to Arguments

8. Applicant's arguments filed 10/23/08 have been fully considered but they are not persuasive. Walsh is considered to disclose reinforcing web 2 by adhesion of strips 6 via laminate cover 10 with glue applied thereto. The strips 6 are effectively sandwiched and adhered between layers 2 and 10 by a glue layer 22.

ad·here *—verb (used without object)*

1. to stay attached; stick fast; cleave; cling (usually fol. by *to*):

Figure 2 of Walsh shows a wider strip 6 in the middle which is then cut so as to provide edge reinforcement sections extending on the two opposing longitudinally extending sides. Fold lines 54 are “formed in the relatively rigid material 2”; see column 3, lines 43+. There is no mention of fold lines 54 being formed in strip material 6 but only in material 2; see col. 3, lines 42+. Note that the discussion of cut lines is specific to each layer see column 4. The proportionality argument presented on page 13 is not agreed with or persuasive. Note when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int 'l*, 222 F.3d 951(Fed. Cir. 2000); MPEP 2125.

Regarding McNown, the functionality of the strips of Walsh do more than provide a flexible barrier between the layers as argued.

McNown clearly shows reinforcing longitudinal panel portions by reinforcing only adjacent portions of a score line. One of ordinary skill in the art at the time of the invention would have been able to use this teaching for the predictable outcome of reinforcing the selected portions as desired. Note that a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond that person's skill. While evaluating obviousness, one must ask whether the improvement is more than the predictable use of prior-art elements according to their established functions; see *KSR Int. v. Teleflex 550 US__*(2007).

To determine whether there was an apparent reason to combine the known elements in the way a patent claims, it will often be necessary to look to interrelated teachings of multiple patents; to the effects of demands known to the design community or present in the marketplace; and to the background knowledge possessed by a person having ordinary skill in the art; *ibid.*

The analysis need not seek out precise teachings directed to the challenged claimed specific subject matter, for a court can consider the inferences and creative steps a person of ordinary skill in the art would employ. Under the correct analysis, any need or problem known in the field and addressed by the patent can provide a reason for combining the elements in the manner claimed; *ibid.*

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Harmon/
Primary Examiner, Art Unit 3721